IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

FAO.No. 100 of 2004()

AGAINST THE ORDER DATED 14/02/2003 IN IA. 704 /2000 IN OS.353/2001 of PRINCIPAL SUB COURT,KOLLAM

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: APPELLANT:

SABEELA, AGED 40 YEARS,
D/O. SAVUDHA, PAVOOR PUTHEN VEETTIL,
ASRAMAM CHERRY, KOLLAM EAST VILLAGE.

BY ADV. SRI.K.S.MANU (PUNUKKONNOOR)
SRI.P.SREEKUMAR

RESPONDENTS:

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1. G.JOLA, D/O. GANGADHARAN,
SANKAR NIVAS, CHAIKKUDY LANE, PETTA,
THIRUVANANTHAPURAM.

2. HARI, S/O. MONY,
SANKAR NIVAS, CHAIKKUDY LANE, PETTA,
THIRUVANANTHAPURAM.

BY ADV. SRI.C.C.ABRAHAM
SRI.DILEEP P.PILLAI

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR, JJ.

F.A.O.No.100 of 2004

Dated 7th August, 2007.

J U D G M E N T

Kurian Joseph, J.

The appeal is filed against the order dated 14.2.2003 in I.A.No.704/2000 in O.S.353/01 on the file of the Principal Sub Court, Kollam. The appellant is the plaintiff. The suit is one for specific performance. The suit was posted for return of summons on 18.2.2002 and according to the appellant, she could not appear on that day owing to 'Hartal'. As the suit was dismissed for default, she filed I.A.704/00 for restoration. It is seen from the order under appeal that when the said interlocutory application was posted for hearing also, the petitioner and counsel were not present and hence the application was dismissed. The appellant has not furnished copy of the affidavit accompanying the petition and hence this Court is not in a position to see whether there was sufficient reason at all. Be that as it may, the dismissal is only for default and hence it is open to the petitioner to file a petition for restoration of I.A.704/00 before the court below. In the event of the appellant thus moving the court below for restoration of the interlocutory application within two weeks from today, the same

shall not be rejected on the only ground of delay, in view of the fact that the matter was pending before this Court.

The First Appeal is disposed of as above.

KURIAN JOSEPH, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

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KURIAN JOSEPH &

T.R.RAMACHANDRAN NAIR, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 7th August, 2007.